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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,676

07/26/2005

Jorgen Bodum

26648U

6934

20529

7590

12/07/2006

NATH & ASSOCIATES

112 South West Street  
Alexandria, VA 22314

EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

211

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/530,676	BODUM, JORGEN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew J. Rost	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 9/27/2006. Claims 1-8, 10 and 12-15 have been amended. No claims have been canceled. No claims have been added. Presently, claims 1-15 are pending.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the espresso machine must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Sankey et al. (4,706,847).

Regarding claim 1, Sankey et al. disclose an adapter having attachment means (plug 21) and connection means (39), a container (15) with a drain opening (neck 13), a device (combination of coupler 23 and tap, col. 2, lines 3-4), with the attachment means having a an attachment port (opening that leads to port 47 in Fig. 3), a pressure equalizing valve (check valve 75) placed in fluid communication with a flow passage and the pressure equalizing valve being placed between the attachment port and the connection means (Fig. 3) with the valve for automatically equalizing the pressure in the container. The attachment means provide a sealing engagement with the container (the attachment means have flexible radial fins 37 that provide a seal with the neck of the bottle, col. 1 lines 34-36 and col. 2 lines 16-18) and the connection means being shaped as a cylinder and fits in a deep hole (87). The connection means having a valve (51)

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that is spring biased to a closed position and is opened when the connection means is inserted into the cylinder and contacts a wall (99) (col. 3, lines 47-53).

In regards to claim 2, Sankey et al. disclose disconnecting the coupler from the adapter with the adapter remaining in the container and sealing the container from the atmosphere (col. 4, lines 8-24).

In regards to claim 3, Sankey et al. disclose the plug and coupler being made of a plastic (col. 4, lines 25-30) and the fins (37) that form a seal with the container are flexible to seal the plug in the container (col. 1, lines 34-36).

In regards to claim 14, Sankey et al. disclose the container is a bottle (wine bottle 15).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankey et al. in view of Petrovas (CA 2,396,856):

In regards to claim 4, Sankey et al. disclose an adapter as described above. Sankey et al. do not disclose the attachment means being shaped as a truncated cone. However, Petrovas teaches the use of a tapered component for sealing a container mouth of any diameter dimension and to stabilize the evacuation device in the mouth of

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the container (page 2, lines 22-32). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the adapter of Sankey et al. with a tapered component as taught by Petrovas in order to seal the adapter in a variety of containers of any diameter dimension and to stabilize the adapter in the mouth of the container.

In regards to claim 5, Petrovas teach a plurality of ribs and grooves on the tapered component (page 3, lines 36-38).

In regards to claim 6, Sankey et al. disclose the pressure equalizing valve joining the flow passage upstream the valve.

In regards to claim 7, Sankey et al. disclose the pressure equalizing valve being closed to prevent liquid from entering the gas passage.

In regards to claim 8, Sankey et al. disclose the opening of the valve to be controllable by device (connection of the coupler opens the valve with a tap regulating the flow of the liquid from the container).

In regards to claim 9, Sankey et al. disclose the sealing member on the outer portion of the adapter is a sleeve (35) around a tubular portion (33) (Fig. 3).

In regards to claim 10, the modified Sankey et al. reference does not expressly disclose the body of the adapter being shaped by injection molding. However, the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product was made by a different process (see MPEP 2113).

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In regards to claim 11, Sankey et al. disclose the flow passage in the adapter to be linear.

In regards to claim 12, Sankey et al. disclose the attachment means being located in the outlet of the container (the fins contact the inside portion of the bottle (Fig. 1).

7. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankey et al.

In regards to claim 13, Sankey et al. do not expressly disclose the liquid in the bottle to be drinking water. However, it would have been obvious to one of ordinary skill in the art to place any desirable liquid in the container.

In regards to claim 15, Sankey et al. do not expressly disclose the device being an espresso machine. However, the device being an espresso machine is an intended use of the adapter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the adapter in any desirable liquid dispensing device.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Burrows et al. disclose a valve assembly for a dispenser having a movable valve stem that is moved by a dispensing device, a pressure equalizing valve for automatically equalizing the pressure in a bottle container, and the valve assembly being inserted into the opening of the bottle container. Skar (2,385,847) disclose a tapered cone plug assembly. Koukal (3,167,220), Sullivan et al. (5,873,478), Gust (3,802,606), Belanger (5,079,013), Puskarz (4,363,339), Arps (3,341,073), Boyer et al. (3,125,135) and Finlayson (3,191,622) disclose a dispensing valve assembly.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJR, ASR 12/6/06



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